

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

JAMES KEVIN PITTS,

Petitioner,  
V

## WARDEN GLEBE,

## Respondent.

No. C09-5713 RJB

## ORDER DENYING CERTIFICATE OF APPEALABILITY

On June 7, 2010, this Court entered an Order Adopting Report and Recommendation Denying Writ of Habeas Corpus in the above referenced matter. A motion for reconsideration was denied on June 21, 2010. Petitioner has filed a notice of appeal.

The Antiterrorism and Effective Death Penalty Act (AEDPA) governs the right of a petitioner to appeal the denial of a writ of habeas corpus. Under 28 U.S.C. § 2253(c), a petitioner may not appeal the denial of a habeas corpus petition until the district court or the Ninth Circuit issues a certificate of appealability. United States v. Asrar, 116 F.3d 1268 (9th Cir. 1997).

The Report and Recommendation adopted by this Court concluded “that Mr. Pitts is not entitled to a COA with respect to any of the claims asserted in his petition because he has not demonstrated that jurists of reason could disagree with the district court’s resolution of his constitutional claims or could conclude the issues presented are adequate to deserve

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1 encouragement to proceed further.” Dkt 17. Having adopted the Report and Recommendation,  
2 this Court has already ruled that Petitioner is not entitled to a certificate of appealability.

3 ACCORDINGLY;

4 IT IS ORDERED:

5 Petitioner is not entitled to a Certificate of Appealability.

6 DATED this 7th day of July, 2010.  
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10 ROBERT J. BRYAN  
United States District Judge  
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